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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/180,374	04/12/1999	HEIKE RITTER	LEVER600X	6709

201 7590 11/27/2001

UNILEVER
PATENT DEPARTMENT
45 RIVER ROAD
EDGEWATER, NJ 07020

EXAMINER

PADEN, CAROLYN A

ART UNIT	PAPER NUMBER
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1761

21

DATE MAILED: 11/27/2001

Please find below and/or attached an Office communication concerning this application or proceeding.



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1761 21

DATE MAILED:

NOTICE OF ABANDONMENT

This application is abandoned in view of:

☒ Applicant's failure to timely file a proper response to the Office letter mailed on 5-1-01.

- ☐ A response (with a Certificate of Mailing or Transmission of _____) was received on _____, which is after the expiration of the period for response (including a total extension of time of _____ month(s)) which expired on _____.
- ☐ A proposed response was received on _____, but it does not constitute a proper response to the final rejection.

(A proper response to a final rejection consists only of: a timely filed amendment which places the application in condition for allowance; a Notice of Appeal; or the filing of a continuing application under 37 CFR 1.62 (FWC).

- ☐ No response has been received.
- ☐ Applicant's failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance.
- ☐ The issue fee (with a Certificate of Mailing or Transmission of _____) was received on _____.
- ☐ The submitted issue fee of \$ _____ is insufficient. The issue fee required by 37 CFR 1.18 is \$ _____.
- ☐ The issue fee has not been received.
- ☐ Applicant's failure to timely file new formal drawings as required in the Notice of Allowability.
- ☐ Proposed new formal drawings (with a Certificate of Mailing or Transmission of _____) were received on _____.
- ☐ The proposed new formal drawings filed _____ are not acceptable.
- ☐ No proposed new formal drawings have been received.
- ☐ The express abandonment under 37 CFR 1.62(g) in favor of the FWC application filed on _____.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a) upon the filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below:

Carolyn Paden

CAROLYN PADEN 11-26-01
PRIMARY EXAMINER
GROUP 1300-1761



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

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09/180,374 04/12/99 RITTER

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PATENT DEPARTMENT
45 RIVER ROAD
EDGEWATER NJ 07020

IM52/0501

EXAMINER

PADEN, C

ART UNIT

PAPER NUMBER

1761

20

DATE MAILED:

05/01/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/180374

Applicant(s)

Ritter

Examiner

Paden

Group Art Unit

1761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 3-28-01
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-13 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-13 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other _____

Office Action Summary

Art Unit: 1761

1. The request filed on March 28, 2001 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/180,374 is acceptable and a CPA has been established. An action on the CPA follows.
2. The following guidelines illustrate the preferred layout and content for patent applications. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

The following order or arrangement is preferred in framing the specification and, except for the reference to "Microfiche Appendix" and the drawings, each of the lettered items should appear in upper case, without underlining or bold type, as section headings. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) Title of the Invention.
 - (b) Cross-References to Related Applications.
 - © Statement Regarding Federally Sponsored Research or Development.
 - (d) Reference to a "Microfiche Appendix" (see 37 CFR 1.96).
 - (e) Background of the Invention.
 1. Field of the Invention.
 2. Description of the Related Art including information disclosed under 37 CFR 1.97 and 1.98.
 - (f) Brief Summary of the Invention.
 - (g) Brief Description of the Several Views of the Drawing(s).
 - (h) Detailed Description of the Invention.
 - (I) Claim or Claims (commencing on a separate sheet).
 - (j) Abstract of the Disclosure (commencing on a separate sheet).
 - (k) Drawings.
 - (l) Sequence Listing (see 37 CFR 1.821-1.825).
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

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Claims 1, 2, 4, 5, 6, 9 are 10 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Moreau et al for reasons of record.

Moreau discloses a corn fiber oil that contains 73% fat, 8% sterol esters, 4% free sterols, 6% diacylglycerols and 6% ferulate sterol esters.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jandacek (1,413,102) in view of Moreau for reasons of record.

Jandacek discloses edible oils having hypocholesterolemic properties. Here the oil is fortified with 2 to 6% plant sterol. The oils contemplated for use in the product include clear, liquid glyceride oils and pure triglycerides (see page 1, column 2, lines 97-117). The foods prepared from the oil include peanut butter, mayonnaise, ice cream and margarine spreads. At page 3, column 2, lines 37-40 the inclusion of a monoglyceride is indicated. The claims appear to differ from Jandacek in the recitation of the inclusion of a sterol ester. Moreau teaches that corn fiber oil contains 8% sterol esters, 4% free sterols and 6% ferulate sterol ester. It would be obvious to one of ordinary skill in the art to select the corn fiber oil of Moreau as the edible oil product of Jandacek in order to prepare a food product having hypocholesterolemic properties.

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In this case applicant is merely selecting a known oil for use in a food product for a known purpose.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jandacek in view of Moreau as applied to claims 1-6 and 9-13 above, and further in view of Lansbergen or Sassen.

Claim 8 appears to differ from the reference in the suggestion that the product has a particular Stevens value. Each of Lansbergen and Sassen teach vegetable oil containing compositions that have Stevens values that fall within the level that is set forth in the claims. It would have been obvious to one of ordinary skill in the art to prepare an edible product having the Stevens value of the claims by using the edible oils of Lansbergen or Sassen.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear in claim 5 as to what is intended by the recitation "similar to that of the sterol applied" because it is unclear what the sterol applied is.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jandacek in view of Moreau as applied to claims 1-6 and 9-12 above, and further in view of Cherukuri.

The claims appear to differ from Jandacek in view of Moreau in the recitation of the presence of oryzanol. Cherukuri teaches that oryzanol is an inherent component of rice bran oil. It would be obvious to one of ordinary skill in the art to use the rice bran oil of Cherukuri in the

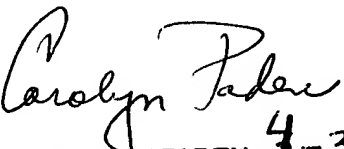
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composition of Jandacek for its antioxidant properties in preserving the composition of Jandacek and also in providing an oil source for the composition of Jandacek.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn Paden whose telephone number is (703) 308-3294. The examiner can normally be reached on Monday to Friday from 8:30 to 4:00.

The fax phone number for this Group is (703) 305-3599 or 305-7718.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.


CAROLYN PADEN 4-30-01
PRIMARY EXAMINER